

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL L. JONES,

Petitioner,

v.

CASE NO. 06-CV-15286
HONORABLE GEORGE CARAM STEEH

BLAINE LAFLER,

Respondent.

/

**ORDER DENYING PETITIONER'S MOTION TO ENFORCE ORDER AND ENTER
DEFAULT JUDGMENT BUT SETTING DEADLINE FOR RULE 5 MATERIALS**

This matter is before the Court on Petitioner's "Motion to Enforce the Order and Enter a Default Judgment Against the Respondent." Petitioner filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on November 30, 2006. The Court ordered Respondent to file a responsive pleading and the relevant state court documents pursuant to Rule 5 of the Rules Governing Habeas Corpus Cases Under Section 2254 by June 8, 2007. Respondent filed an answer to the petition on that date, but has yet to file the required Rule 5 materials. Petitioner filed the present motion on July 16, 2007, seeking enforcement of the Court's order, entry of a default judgment, and extra time in which to file a reply to Respondent's answer.

Petitioner's request for default judgment is without merit. A default judgment is unavailable in a habeas corpus proceeding under 28 U.S.C. § 2254 on the ground that state officials failed to file a timely response to the petition. *Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970). Accordingly, the Court **DENIES** Petitioner's request for default judgment.

Petitioner, however, is correct that Respondent is required to file the relevant state court documents in a timely fashion and has failed to do so. Accordingly, the Court **ORDERS**

Respondent to file the necessary Rule 5 materials on or before **August 31, 2007**. Petitioner shall then have **45 days** in which to file any reply to Respondent's answer.

IT IS SO ORDERED.

Dated: July 19, 2007

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
July 19, 2007, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk